* IN THE HIGH COURT OF DELHI AT NEW DELHI

\+ Bail Application Nos.1540-41/2007

% Date of Decision : 10th of August, 2007

\# RUBINA .....Petitioner,
! Through : Mr. Harish Malhotra, Sr. Advocate with Mr. Rohit Jain, Adv.

versus

$ STATE (NCT OF DELHI) .....Respondent,
^ Through : Mr. M.N. Dudeja,Adv. for State
Ms. Manasi, Adv. for Complainant

AND

\# TASLEEMA .....Petitioner,

versus

$ STATE (NCT OF DELHI) .....Respondent,

* CORAM:
HON'BLE MR. JUSTICE B.N. CHATURVEDI

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not? Yes

3. Whether the judgment should be reported in the Digest? Yes

: **B.N.CHATURVEDI, J.**

1. Petitioners Tasleema and Rubina, seek pre-arrest bail in a case FIR No.135/2007 under Sections

498A/324/34 IPC PS Chandni Mahal, Delhi.

2. The petitioners are sisters-in-law (Nanad) of the complainant Smt. Seema, wife of co-accused Salauddin. It is alleged that on 17th April, 2007 at about 3.30 pm both the petitioners accompanied by their co- accused Naseema, Cheena, Nasruddin and Salauddin came to the house of the complainant and forcibly took away her 3 year old adopted daughter namely Tasbia. She had adopted Tasbia, daughter of petitioner Tasleema @ Baby about two years seven months back when she was only a week old. The petitioners and their said co-accused also poured some oil on her due to which she sustained burns on her body.

3. The complainant was taken to JPN Hospital at 8.55 pm on 17th April, 2007 for her medical examination. Though she complained to the doctor concerned of burning all over her body, but on examination no external injury was found on her person. Later, on 18th April, 2007 at about 2.45 pm

she was again taken to JPN Hospital by the police for her another medical examination when 25% burns were found present on anterior part of her chest and abdomen. A FIR No.135/2007 was eventually registered at PS Chandni Mahal, Delhi under Sections 498A/324/34 IPC at 7.20 pm.

4. Learned counsel for the petitioners argued that the complainant in her first complaint simply made general allegations, without specifying the roles of individual accused, that some oil was poured on her by the petitioners and their co- accused including her husband Salauddin on account of which she sustained burns on her person. It was pointed out that on her first medical examination at JPN Hospital no external injury of any sort was, however, found on her person and it was only on the next day on 18th April, 2007 at 2.45 pm on her being taken to the said Hospital for the second time for her medical examination that 25% burns over anterior parts of her chest and abdomen were found. The learned counsel

for the petitioners thus contended that had any burns been caused on the person of the complainant on the date and time of alleged incident the same would not have gone unnoticed on her first medical examination. Learned counsel for the petitioners submitted that in her first complaint the complainant did not specify the role played by the petitioners and her co-accused and it was only in her subsequent statement dated 20th April, 2007 that she came out with an allegation that both the petitioners had caught hold of her and her husband had poured oil on her body. Referring to a typed statement dated 11th May 2007 of the complainant, naming four more persons as accused and yet another supplementary statement dated 22nd June 2007, it was contended that the complainant kept on making improvements in her successive statements and not only that she came out with changed versions in regard to alleged incident she also went on roping in certain other persons also whose names did not find mention in her

initial complaint.

5. The plea for anticipatory bail to either of the petitioners was opposed on behalf of the State.

6. It is noticed that the learned Addl. Sessions Judge who dealt with the applications for anticipatory bail on behalf of the present petitioners as also their co accused Naseema, Mubina and Salauddin granted pre-arrest bail to their co-accused Naseema and Mubina but declined the same to petitioners and their co accused Salauddin on the grounds that there were specific allegations of both of them catching hold of the complainant and their co-accused Salauddin pouring oil on her resulting into burns on her person. It is however, to be noticed that in her initial complaint the complainant had made only general allegations against the petitioners and their co-accused Naseema and it was only in her supplementary statements that she came out with specific role allegedly played by them.

7. From the perusal of first MLC it is gathered

that no burns were found on her person on the date of incident and it was only on the next day in the afternoon when she was taken for her medical examination for a second time that 25% burns were noticed on the anterior part of her chest and abdomen.

8. In the totality of the facts and circumstances of the case, the petitioners are, in the event of their arrest, directed to be released on bail on their furnishing personal bond for Rs.10,000/- each with one surety in the like amount to the satisfaction of the I.O./S.H.O. concerned. They shall keep on joining investigation whenever so required.

9. Both the petitions stand disposed of.

(B.N.CHATURVEDI)
JUDGE

August 10, 2007
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